

SUBCHAPTER E—GAMING LICENSES AND BACKGROUND INVESTIGATIONS FOR KEY EMPLOYEES AND PRIMARY MANAGEMENT OFFICIALS

PARTS 550–555 [RESERVED]

PART 556—BACKGROUND INVESTIGATIONS FOR PRIMARY MANAGEMENT OFFICIALS AND KEY EMPLOYEES

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AUTHORITY: 25 U.S.C. 2706, 2710, 2712.

SOURCE: 78 FR 5279, Jan. 25, 2013, unless otherwise noted.

§ 556.1 Scope of this part.

Unless a tribal-state compact assigns sole jurisdiction to an entity other than a tribe with respect to background investigations, the requirements of this part apply to all class II and class III gaming. The procedures and standards of this part apply only to primary management officials and key employees. This part does not apply to any license that is intended to expire within 90 days of issuance.

§ 556.2 Privacy notice.

(a) A tribe shall place the following notice on the application form for a key employee or a primary management official before that form is filled out by an applicant:

In compliance with the Privacy Act of 1974, the following information is provided: Solicitation of the information on this form is authorized by 25 U.S.C. 2701 *et seq.* The purpose of the requested information is to determine the eligibility of individuals to be granted a gaming license. The information will be used by the Tribal gaming regulatory authorities and by the National Indian Gaming Commission (NIGC) members and staff who have need for the information in the performance of their official duties. The information may be disclosed by the Tribe or the NIGC to appropriate Federal, Tribal, State, local, or foreign law enforcement and regulatory

agencies when relevant to civil, criminal or regulatory investigations or prosecutions or when pursuant to a requirement by a tribe or the NIGC in connection with the issuance, denial, or revocation of a gaming license, or investigations of activities while associated with a tribe or a gaming operation. Failure to consent to the disclosures indicated in this notice will result in a tribe's being unable to license you for a primary management official or key employee position.

The disclosure of your Social Security Number (SSN) is voluntary. However, failure to supply a SSN may result in errors in processing your application.

(b) A tribe shall notify in writing existing key employees and primary management officials that they shall either:

- (1) Complete a new application form that contains a Privacy Act notice; or
- (2) Sign a statement that contains the Privacy Act notice and consent to the routine uses described in that notice.

(c) All license application forms used one-hundred eighty (180) days after February 25, 2013 shall comply with this section.

§ 556.3 Notice regarding false statements.

(a) A tribe shall place the following notice on the application form for a key employee or a primary management official before that form is filled out by an applicant:

A false statement on any part of your license application may be grounds for denying a license or the suspension or revocation of a license. Also, you may be punished by fine or imprisonment (U.S. Code, title 18, section 1001).

(b) A tribe shall notify in writing existing key employees and primary management officials that they shall either:

- (1) Complete a new application form that contains a notice regarding false statements; or
- (2) Sign a statement that contains the notice regarding false statements.

(c) All license application forms used 180 days after February 25, 2013 shall comply with this section.

§ 556.4 Background investigations.

A tribe shall perform a background investigation for each primary management official and for each key employee of a gaming operation.

(a) A tribe shall request from each primary management official and from each key employee all of the following information:

(1) Full name, other names used (oral or written), social security number(s), birth date, place of birth, citizenship, gender, all languages (spoken or written);

(2) Currently and for the previous five years: Business and employment positions held, ownership interests in those businesses, business and residence addresses, and driver's license numbers;

(3) The names and current addresses of at least three personal references, including one personal reference who was acquainted with the applicant during each period of residence listed under paragraph (a)(2) of this section;

(4) Current business and residence telephone numbers;

(5) A description of any existing and previous business relationships with Indian tribes, including ownership interests in those businesses;

(6) A description of any existing and previous business relationships with the gaming industry generally, including ownership interests in those businesses;

(7) The name and address of any licensing or regulatory agency with which the person has filed an application for a license or permit related to gaming, whether or not such license or permit was granted;

(8) For each felony for which there is an ongoing prosecution or a conviction, the charge, the name and address of the court involved, and the date and disposition if any;

(9) For each misdemeanor conviction or ongoing misdemeanor prosecution (excluding minor traffic violations) within 10 years of the date of the application, the name and address of the court involved and the date and disposition;

(10) For each criminal charge (excluding minor traffic charges) whether or not there is a conviction, if such criminal charge is within 10 years of the date of the application and is not otherwise listed pursuant to paragraph (a)(8) or (a)(9) of this section, the criminal charge, the name and address of the court involved and the date and disposition;

(11) The name and address of any licensing or regulatory agency with which the person has filed an application for an occupational license or permit, whether or not such license or permit was granted;

(12) A photograph;

(13) Any other information a tribe deems relevant; and

(14) Fingerprints consistent with procedures adopted by a tribe according to § 522.2(h) of this chapter.

(b) If, in the course of a background investigation, a tribe discovers that the applicant has a notice of results on file with the NIGC from a prior investigation and the tribe has access to the earlier investigative materials (either through the NIGC or the previous tribal investigative body), the tribe may rely on those materials and update the investigation and investigative report under § 556.6(b)(1).

(c) In conducting a background investigation, a tribe or its agents shall keep confidential the identity of each person interviewed in the course of the investigation.

§ 556.5 Tribal eligibility determination.

A tribe shall conduct an investigation sufficient to make an eligibility determination.

(a) To make a finding concerning the eligibility of a key employee or primary management official for granting of a gaming license, an authorized tribal official shall review a person's:

(1) Prior activities;

(2) Criminal record, if any; and

(3) Reputation, habits and associations.

(b) If the authorized tribal official, in applying the standards adopted in a tribal ordinance, determines that licensing of the person poses a threat to the public interest or to the effective

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regulation of gaming, or creates or enhances the dangers of unsuitable, unfair, or illegal practices and methods and activities in the conduct of gaming, an authorizing tribal official shall not license that person in a key employee or primary management official position.

§ 556.6 Report to the Commission.

(a) When a tribe employs a primary management official or a key employee, the tribe shall maintain a complete application file containing the information listed under § 556.4(a)(1) through (14).

(b) Before issuing a license to a primary management official or to a key employee, a tribe shall:

(1) Create and maintain an investigative report on each background investigation. An investigative report shall include all of the following:

- (i) Steps taken in conducting a background investigation;
- (ii) Results obtained;
- (iii) Conclusions reached; and
- (iv) The basis for those conclusions.

(2) Submit a notice of results of the applicant's background investigation to the Commission no later than sixty (60) days after the applicant begins work. The notice of results shall contain:

- (i) Applicant's name, date of birth, and social security number;
- (ii) Date on which applicant began or will begin work as key employee or primary management official;
- (iii) A summary of the information presented in the investigative report, which shall at a minimum include a listing of:

(A) Licenses that have previously been denied;

(B) Gaming licenses that have been revoked, even if subsequently reinstated;

(C) Every known criminal charge brought against the applicant within the last 10 years of the date of application; and

(D) Every felony of which the applicant has been convicted or any ongoing prosecution.

(iv) A copy of the eligibility determination made under § 556.5.

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§ 556.7 Notice.

(a) All notices under this part shall be provided to the Commission through the appropriate Regional office.

(b) Should a tribe wish to submit notices electronically, it should contact the appropriate Regional office for guidance on acceptable document formats and means of transmission.

§ 556.8 Compliance with this part.

All tribal gaming ordinances and ordinance amendments approved by the Chair prior to the February 25, 2013 and that reference this part, do not need to be amended to comply with this part. All future ordinance submissions, however, must comply.

PART 557 [RESERVED]

PART 558—GAMING LICENSES FOR KEY EMPLOYEES AND PRIMARY MANAGEMENT OFFICIALS

Sec.

558.1 Scope of this part.

558.2 Review of notice of results for a key employee or primary management official.

558.3 Notification to NIGC of license decisions and retention obligations

558.4 Notice of disqualifying information and licensee right to a hearing.

558.5 Submission of notices.

558.6 Compliance with this part.

AUTHORITY: 25 U.S.C. 2706, 2710, 2712.

SOURCE: 78 FR 5280, Jan. 25, 2013, unless otherwise noted.

§ 558.1 Scope of this part.

Unless a tribal-state compact assigns responsibility to an entity other than a tribe, the licensing authority for class II or class III gaming is a tribal authority. The procedures and standards of this part apply only to licenses for primary management officials and key employees. This part does not apply to any license that is intended to expire within 90 days of issuance.

§ 558.2 Review of notice of results for a key employee or primary management official.

(a) Upon receipt of a complete notice of results for a key employee or primary management official as required by § 556.6(b)(2) of this chapter, the Chair